



# Chapter 13: Nonappropriated Funds





## **CHAPTER 13**

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## **CHAPTER 13**

### **NONAPPROPRIATED FUNDS**

#### **I. INTRODUCTION.**

- A. What are Nonappropriated funds (NAFs)? NAFs are monies which are not appropriated by the Congress of the United States. These funds are separate and apart from funds that are recorded in the books of the U.S. Treasury. Within the Department of Defense (DOD), NAFs come primarily from the sale of goods and services to military and civilian personnel and their family members, and are used to support Morale, Welfare, and Recreation (MWR), billeting, and certain religious and educational programs. NAFs are government funds used for the collective benefit of military personnel, their family members, and authorized civilians. DOD 7000.14-R, Financial Management Regulation, Volume 13, Chapter 1, para. 010101.
- B. NAFs are Government funds subject to controlled use. All DOD personnel have a fiduciary responsibility to use NAFs properly and prevent waste, loss, mismanagement, or unauthorized use. Violators are subject to administrative and criminal sanctions. See 10 U.S.C. § 2783. (Appendix A to this outline).
- C. NAFs are audited.
  - 1. Comptroller General. The Comptroller General has statutory authority to audit the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States government personnel and their dependents. 31 U.S.C. § 3525. For example, see Nonappropriated Funds, Opportunities to Improve DOD's Concessions Committee, GAO/NSIADF/AIMD-98-119, April 30, 1998.
  - 2. Agency Inspector Generals. The DOD IG has issued reports on Navy Ship Stores Operations (Report No. 96-123, May 17, 1996), and the Armed Forces Recreation Center - Orlando (Report No. 95-308, September 21, 1995).

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## **II. REFERENCES.**

- A. 10 U.S.C. § 2783, Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds.
- B. DOD Directive (DODD) 1015.1, Establishment, Management, and Control of Nonappropriated Fund Instrumentalities, August 19, 1981.
- C. DODD 1015.2, Military Morale, Welfare and Recreation (MWR), June 14, 1995.
- D. DODD 1015.6, Funding of Morale, Welfare and Recreation Programs, August 3, 1984.
- E. DODD 1015.11, Lodging Resource Policy, December 9, 1996.
- F. DODD 1330.9, Armed Services Exchange Regulations, December 15, 1986.
- G. DOD 7000.14-R, DOD Financial Management Regulation, Volume 13, Nonappropriated Funds Policy and Procedures.
- H. DODI 1000.15, Private Organizations on DOD Installations, October 23, 1997.
- I. DODI 1015.10, Programs for Military Morale, Welfare and Recreation (MWR), November 3, 1995.
- J. DODI 1015.12, Lodging Program Resource Management, October 30, 1996.
- K. DODI 1015.13, Department of Defense Procedures for Implementing Public-Private Ventures (PPVs) for Morale, Welfare and Recreation (MWR) Category C Revenue-Generating Activities, June 17, 1998.
- L. DODI 7000.12, Financial Management of Morale, Welfare and Recreational Activities, May 27, 1987.



- M. Assistant Secretary of Defense (Force Management Policy) Memorandum, Subject: DOD Morale, Welfare and Recreation Utilization, Support and Accountability (DOD MWR USA) Practice, July 23, 1997.
- N. Army Regulation (AR) 165-1, Chaplain Activities in the United States Army, February 27, 1998.
- O. AR 215-1, Morale, Welfare and Recreation Activities and Nonappropriated Fund Instrumentalities, 25 October 1998.
- P. AR 215-7, Civilian Nonappropriated Funds and Morale, Welfare and Recreation Activities, 26 January 2001.
- Q. Army MWR Academy Senior Managers' Handbook (obtained at [www.armymwr.com](http://www.armymwr.com) under "MWR Academy; Publications").
- R. AR 60-10/AFR 147-7, Army and Air Force Exchange Service General Policies, 17 June 1988.
- S. AR 60-20/AFR 147-14, Army and Air Force Exchange Service Operating Policies, 15 December 1992.
- T. Air Force Instruction (AFI) 34-201, Use of Nonappropriated Funds, 25 July 1994.
- U. AFI 34-262, Services Programs and Use Eligibility, 1 March 1999.
- V. AFI 65-106, Appropriated Fund Support of MWR and Nonappropriated Fund Instrumentalities, 28 October 1994.
- W. SECNAVINST 1700.12, Operation of Morale, Welfare and Recreation Activities, 18 September 1997.

### III. DEFINITIONS.

A. Nonappropriated Fund Instrumentality (NAFI).<sup>1</sup>

1. An integral organization and fiscal entity that performs an essential Government function. It acts in its own name to provide or assist other DOD organizations in providing MWR programs for military personnel, their families, and authorized civilians. It is established and maintained individually or jointly by two or more DOD components. As a fiscal entity, it maintains custody and control over its NAFs, equipment, facilities, land, and other assets. It enjoys the legal status of an instrumentality of the United States. DODD 1015.1, Enclosure 2, Definitions; AR 215-1, Glossary.
2. In Standard Oil Co. of California v. Johnson, 316 U.S. 481 (1942), the Supreme Court concluded that post exchanges were an integral part of the War Department and enjoyed whatever immunities the Constitution and federal statutes provided the Federal Government.

B. Morale, Welfare and Recreation Program (MWR). Those military programs (exclusive of private organizations) on military installations or on property controlled (by lease or other means) by a Military Department or furnished by a DOD contractor that provide for the esprit de corps, comfort, pleasure, contentment, as well as mental and physical productivity of authorized DOD personnel. They include recreational and leisure-time programs, self-development programs, resale merchandise and services, or general welfare programs. AR 215-1, Glossary.

C. Army MWR Fund (AMWRF). Army central NAFI managed by the U.S. Army Community and Family Support Center (USACFSC) that provides up to 90% of funds for approved NAF major construction and supports other Army-wide MWR programs.

D. Installation MWR Fund (IMWRF). A NAFI established for the purpose of providing installation/community MWR activities, including food and beverage, retail recreation, lodging, and community support services.

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<sup>1</sup> The Department of Defense is not the only agency which has NAFIs. For example, the Department of Agriculture's Graduate School receives no APF support. The school's only source of income is the tuition and fees it charges its students. Congress authorizes the Graduate School to function as a NAFI under 7 U.S.C. § 2279b.

- E. Chaplain's Fund. Every Chaplain's Fund is legally constituted as an instrumentality of the United States. The funds are NAFs that provide supplemental support for the religious practices and requirements of DOD personnel and family members. AR 165-1, para. 14-2.
- F. Unit Funds. Separate funds established, managed, and administered at the unit level for isolated active duty units or reserve component units or personnel performing annual training. NAF support is provided by the coordinating installation, usually the one nearest the supported unit. AR 215-1, Chapter 5, section IV; DOD 7000.14-R, Volume 13, Chapter 9.

#### **IV. CASH MANAGEMENT, BUDGETING, AND SOURCES OF NAFI REVENUE.**

- A. NAFI Cash Management Standard. AR 215-1, para. 11-5.
  - 1. All NAFIs are required to generate sufficient cash and a positive net income before depreciation which, when coupled with existing funds, will permit the NAFI to fund all of its operating and capital requirements, with the exception of major construction, which is funded by the AMWRF.
  - 2. Each NAFI must produce adequate revenues to cover operating and capital requirements while maintaining a cash to debt ratio between 1:1 and 2:1 (total cash divided by current liabilities).<sup>2</sup>
- B. NAFI Budgeting.
  - 1. Each IMWRF budget is submitted to its MACOM, and will include:
    - a. a commander's narrative;
    - b. annual operating budget;
    - c. five-year financial plan;

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<sup>2</sup> Navy regulations require that NAFIs "break even," achieved when net income equals net expenses, including depreciation expense. SECNAVINST 1700.12, para. 5.

- d. monthly and five-year cash projections; and
  - e. construction, capital purchase, and maintenance and repair budget and schedule.
2. MACOMs will review and approve installation and community budgets unless authority is deferred to USACFSC. Consolidated MACOM budgets are submitted to USACFSC by 1 September.

C. NAFI Revenue Sources.

1. Funding of IMWRFs.
- a. Commonly known as the single fund, an IMWRF is the NAFI under which most installation MWR activities are organized and NAFs administered.<sup>3</sup>
  - b. Some MWR activities, such as exchange activities, Civilian Post Restaurant Funds, Civilian Welfare Funds, and the Stars and Stripes newspaper, support the installation; however, their management structure is not within the purview of the Installation Morale, Welfare, and Recreation Fund (IMWRF). AR 215-1, para. 1-6; AFI 34-201, para. 1.5.
  - c. NAFs generated by each MWR activity are pooled into the IMWRF and allocated to MWR activities based on installation priorities and the provisions of AR 215-1. AR 215-1, para. 4-6.
  - d. IMWRFs are sustained with locally generated NAFs and authorized APF support. The revenue comes from local sales of goods and services and user fees and charges. For example, the IMWRF receives locally generated income from AAFES package stores and telephone contract profits as earned, plus a percentage of AAFES revenue generated on the installation. AR 215-1, para. 11-6.

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<sup>3</sup> AR 215-1, para. 5-2, requires the consolidation of separate NAFIs into the IMWRF unless there is no IMWRF or when impractical or prohibited. Consolidation minimizes the number of NAFIs and reduces overhead expenses.

- e. MACOMs may subsidize unprofitable IMWRFs with surplus NAFs available from other MACOM IMWRFs. AR 215-1, para. 4-6b(1).
2. Funding of the AMWRF. AR 215-1, para. 11-8.
- a. Resources for the AMWRF are primarily obtained from recreation machine revenue, and from AAFES dividends and interest from the temporary investment of funds that have been programmed but not yet spent.
  - b. Monthly Capital Reinvestment Assessment (CRA) is a percentage of total revenue from installation and MACOM NAFIs, as determined by the MWR Board of Directors (BOD) and published annually in the NAF budget letter of instruction. This amount is transferred to the AMWRF to assist in funding Army priorities.<sup>4</sup>
  - c. AMWRF resources are devoted primarily to funding NAF major construction and other program investments. AR 215-1, para. 11-11.

## **V. MANAGEMENT OF MWR ACTIVITIES.**

### **A. Army. AR 215-1, Chapter 2.**

- 1. The Secretary of the Army establishes, maintains and disestablishes joint NAFIs, and coordinates joint Service matters with the Under Secretary of Defense for Personnel and Readiness. An example is the joint Army and Air Force regulation covering the Army and Air Force Exchange Service (AAFES).
- 2. The Assistant Chief of Staff for Installation Management (ACSIM) is the Army staff proponent and focal point for all MWRs and NAFIs. The ACSIM exercises supervision over the U.S. Army Community and Family Support Center (USACFSC), a field operating agency of the Army.

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<sup>4</sup> 10 U.S.C. § 2219 limits the amount of NAFs that an IMWRF can retain to that which is necessary to meet installation cash requirements. Amounts in excess of that amount shall be transferred to a single nonappropriated MWR account.

3. The Assistant Secretary of the Army for Financial Management (ASA(FM)) provides financial oversight of appropriated funds (APFs) and nonappropriated funds (NAFs).
4. The Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(M&RA)) is responsible for MWR, NAFIs, and personnel. ASA(M&RA) serves on the MWR Board of Directors, along with six four-star commanders and the SGM of the Army.
5. The Commander, U.S. Army Community and Family Support Center (USACFSC):
  - a. Recommends MWR and NAF policy to the ACSIM;
  - b. Issues MWR NAF budget guidance, provides input to APF budget guidance, provides NAF financial oversight, and prescribes and uses effective management controls; and
  - c. Provides custody over all central NAFs maintained at USACFSC, and acts as administrator of the Army MWR fund (AMWRF). Examples of NAFIs that USACFSC centrally manages:
    - (1) Army Morale Welfare and Recreation Fund (AMWRF);
    - (2) Army Billeting Fund;
    - (3) Army Recreation Machine Fund;
    - (4) Army Banking and Industrial Fund (ABIF);
    - (5) Army Central Insurance Fund;
    - (6) Hale Koa Armed Forces Recreation Center;
    - (7) Armed Forces Recreation Center-Orlando (Shades of Green);

- (8) Armed Forces Recreation Center - Europe, Garmisch and Chiemsee, Germany;
  - (9) Dragon Hill Lodge, Seoul, Korea.
- 6. Commanders of major Army commands (MACOMs) exercise budget oversight of MWR activities and NAFIs operated by installations and unit funds, and ensure APFs and NAFs are used as authorized.
- 7. Installation Commanders:
  - a. plan, manage, and operate MWR programs;
  - b. plan, manage, and operate the installation MWR fund (IMWRF), and other installation NAFIs based on mission requirements, community needs, and DA requirements; and
  - c. Appoint NAFI fund managers<sup>5</sup> and councils.<sup>6</sup>
- 8. The Director of Personnel and Community Activities (DPCA or DCA):
  - a. serves as the installation fund manager;
  - b. advises the command on MWR activities;
  - c. plans, develops and implements through subordinates all aspects of the MWR; and
  - d. ensures program operations maintain the fiscal integrity of the fund.

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<sup>5</sup> Duties of fund managers are detailed in AR 215-1, para. 5-6.

<sup>6</sup> NAFI council guidelines are at AR 215-1, paras. 5-8 through 5-10.

B. Air Force. AFI 34-201, Chapter 2.

1. The Secretary of the Air Force gives the authority to administer NAFs and NAFIs to the Air Force Chief of Staff.
2. Major Commander (MAJCOM):
  - a. Approves the establishment of base and isolated unit NAFIs;
  - b. Supervises all NAFIs within the command and administers command-level NAFIs; and
  - c. Appoints a NAF council and finance and audit committee to help administer and supervise command-level NAFs.
3. Installation Commander (wing commander or equivalent):
  - a. Requests MAJCOM approval to establish base-level NAFIs; and
  - b. Appoints a custodian for each NAFI and appoints a NAF council.
4. At base level, the resource management flight chief (RMFC) acts as single custodian of all NAFIs serviced by the NAF accounting office.

C. Navy.

1. The Navy has a Morale, Welfare and Recreation Division (PERS-65), composed of nine branches, located in Millington, TN.
2. Chaired by the Vice Chief of Naval Operations, a MWR/Navy Exchange (NEX) Board of Directors (BOD) makes major policy and business decisions for both programs.
3. The Navy regionalized its MWR NAF activities.



D. Marine Corps.

1. The Personal and Family Readiness Division, under the staff cognizance of the Deputy Chief of Staff for Manpower and Reserve Affairs, is responsible for providing Service policy and resources to support commanders in executing quality Personal and Family programs.
2. The MWR Policy Review Board makes recommendations on major MWR policy matters to the Assistant Commandant of the Marine Corps. Marine Corps Order 1700.26C.

**VI. FUNDING SUPPORT OF MWR ACTIVITIES.**

A. Funding Standards. MWR programs are dual funded and rely on a mix of appropriated (APF) and nonappropriated (NAF) funds. The DOD basic standard, regardless of category, is to use APFs to fund 100 percent of costs for which MWR activities are authorized.<sup>7</sup> AR 215-1, para. 11-4a. NAFs are used to supplement APF shortfalls or fund activities not authorized APF support. See generally AR 215-1, para. 4-11.

1. NAFs are generated primarily by sales, fees, and charges to authorized patrons.
2. APFs are provided primarily through operations and maintenance and military construction appropriations.

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<sup>7</sup> The DOD goal is to obtain 100% APF for Category A and 65% for Category B activities.

- B. APF Support of MWR. Appendix D to AR 215-1 contains the specific areas of support that Army commanders may fund with APFs. Attachment 1 to AFI 65-106 contains similar guidance for Air Force Management and Funding.

1. APF support can be direct, indirect, or common.

- a. Direct APF Support. Generally limited to Category A and B MWR activities. Includes support or expenses incurred in the management, administration, and operation of MWR activities or common support functions. It includes those costs that directly relate to, or are incurred by, the operation of the MWR facilities.
- b. Indirect APF Support. All MWR activities receive and are authorized indirect APF support which is historically provided to all installation facilities and functions. Such support mutually benefits MWR and non-MWR. E.g., health, safety (police and fire), security, grounds and facility maintenance and repair.
- c. Common MWR Support. APF support to fund the management, administration, and operation of more than one MWR program or category, where such support is not easily or readily identifiable to a specific MWR program or to solely Category C MWR activities. E.g., central accounting office, civilian personnel office, central procurement.
- d. Support Agreements. NAFIs and installation support elements will enter into agreements on the type of support required and resources to be expended. When the service is not authorized APFs, but the support element provides the service, the NAFI reimburses the Government for the service based upon the support agreement. AR 215-1, para. 4-2e.

2. MWR Categories. Fund support for MWR activities depends on the funding category of the activity, which is based on the relationship of the activity to readiness factors and the ability of the activity to generate revenue. There are three primary funding categories of MWR activities. They are:

- a. Category A - Mission Sustaining Activities. Commanders fund these activities almost entirely with APFs. The use of NAFs is limited to:

- (1) Specific expenses for which APFs are not authorized; or
- (2) When such use is not otherwise prohibited and it has been certified in writing that APF support is not available.  
AR 215-1, para. 4-1a; See also AFI 65-106, para. 2.1.1.
- (3) Examples of Category A activities:
  - (a) Libraries and Information Services;
  - (b) Recreation Centers;
  - (c) Gymnasiums, fieldhouses, pools for aquatic training, and other physical fitness facilities/training programs; and
  - (d) Armed Forces Professional Entertainment Program Overseas.

- b. Category B - Community Support Activities. These activities provide community support systems that help to make military bases temporary hometowns for a mobile military population. They receive a substantial amount of APF support, but can generate NAF revenue. AR 215-1, para. 4-1b; AFI 65-106, para. 2.1.2.

(1) Examples:

- (a) Arts and Crafts;
- (b) Bowling centers (12 lanes or less);
- (c) Child development services;
- (d) Information, ticketing, and registration services;
- (e) Outdoor recreation programs, such as archery ranges, beach facilities, garden plots, hunting/fishing areas, marinas without retail sales or private boat berthing, outdoor recreation checkout centers; and
- (f) Stars and Stripes newspaper.

- c. Category C - Revenue-Generating Activities. These activities have less impact on readiness, and are capable of generating enough income to cover most of their operating expenses. They receive very limited APF support. AR 215-1, para. 4-1c; AFI 65-106, para. 2.1.3.

(1) Remote or isolated sites approved by Congress.

- (a) Category C MWR activities at sites designated as remote or isolated receive APFs on the same basis as Category B MWR activities. APFs are also authorized for use to equip, operate, or maintain golf courses at remote/isolated sites and at sites located OCONUS. AR 215-1, para. 4-4.
- (b) AF regulations generally authorize Category B-level APF support for Category C activities at approved remote and isolated locations, except for AAFES equipment and supplies, or equipment used for generating revenue, or for providing a paid service (such as point of sales systems, bowling center pinsetters, golf carts, slot machines). AFI 65-106, para. 3.1.

(2) Examples of Category C Revenue-Generating Activities:

- (a) Armed Forces Recreation Centers;
- (b) Bingo;
- (c) Bowling centers (over 12 lanes);
- (d) Outdoor recreation, including cabin/cottage operations, rod and gun activities, skiing operations, stables, flying activities; and
- (e) Military clubs.

d. Supplemental Mission NAF Accounts do not support and are not part of the MWR program, but are established to provide a NAF adjunct to APF mission activities. AR 215-1, para. 4-7 and 4-8; AFI 65-106, para. 2.2. Examples include:

- (1) Army Community Services (ACS);
- (2) Veterinary services;
- (3) Fisher House funds;
- (4) Vehicle registration funds;
- (5) Fort Leavenworth U.S. Disciplinary Barracks funds; and
- (6) USMA funds.

## **VII. USE OF NONAPPROPRIATED FUNDS.**

A. The use of NAFs is limited. AR 215-1, para. 4-11.

1. In all cases, NAFs are used judiciously and not as a matter of convenience.
2. NAFs are returned to authorized patrons by providing needed MWR services and capital improvements. AR 215-1, para. 1-8; AFI 34-201, para. 4.1.
3. Prices, user fees, and charges are structured to meet cash management goals for sustainment of a NAFI and its operations, to cover capital requirements and overhead expenses, and to satisfy budget requirements for support of other MWR activities dependent upon the NAFI. AR 215-1, para. 7-5.

4. Funds from supplemental NAFIs support only the requirements for which they were established. Aaron v. United States, 27 Fed. Cl. 295 (1992) (class action suit challenging excess vehicle registration fees used to fund MWR activities); GAO Report to the Chairman, Subcommittee on Defense, Committee on Appropriations, House of Representatives, B-238071, Army Housing Overcharges and Inefficient Use of On-Base Lodging Divert Training Funds, Sep. 1990 (finding improper the Army's use of profits from housing TDY soldiers for the benefit of MWR activities).

B. NAFs may not be used to :

1. Accomplish any purpose that cannot withstand the test of public scrutiny or which could be considered a waste of soldier's dollars. AR 215-1, para. 4-12a.
2. Pay costs of items or services authorized to be paid from APFs when APFs are available. AR 215-1, para. 4-12b. Exceptions to this policy include:
  - a. when the appropriate official certifies in writing that APFs cannot satisfy the requirement;
  - b. when functions, programs, and activities to be funded with NAFs are integral to the functions for which the NAFI was established; and
  - c. when the DOD MWR Utilization, Support and Accountability (USA) policy applies.
3. Support private organizations. AR 215-1, para. 4-12c; AFI 34-201, para. 4.2.22.
4. Contract with Government personnel, military or civilian, except as authorized in AR 215-4. AR 215-1, para. 4-12n.

5. Support non-MWR functions. Army regulations specifically prohibit use of NAFs for any expense for a retirement ceremony, command representation, or other specific benefit for select individuals or groups. AR 215-1, para. 4-12i. However, the Air Force allows the use of NAFs to fund change of command ceremonies on a “modest” basis, as established by MAJCOM commanders. AFI 34-201, para. 12.4.8.
6. Purchase personal items such as memo pads or greeting cards, including personalized memo pads to be used at work. AR 215-1, para. 4-12k. See also AFI 34-201, para. 4.2.17.

### **VIII. FUNDING PROGRAMS FOR CONSTRUCTION.**

- A. APF support for construction of MWR facilities is generally determined by the category of the MWR activity. AR 215-1, para. 10-4b.
- B. Some MWR construction projects are jointly funded by APFs and NAFs. AR 215-1, para. 10-4c.

### **IX. NAF FISCAL ISSUES.**

- A. DOD MWR Funding Policy. DOD is currently assessing the Uniform Resource Demonstration (URD) and the MWR Utilization, Support and Accountability (USA) Practice, the results of which will form the basis for DOD MWR funding policy. Both practices are designed to give MWR managers funding flexibility.
  1. The URD was created by the FY 1996 Defense Authorization Act. Pub. L. No. 104-106, § 335, 110 Stat. 186, 262 (1996).
    - a. The URD concept was tested at six installations. Fort Campbell and White Sands Missile Range represented the Army.
    - b. Participating installations used NAF laws and regulations to spend APFs authorized for MWR programs.



- c. The URD has expired. The Army proposed legislation making the program (Uniform Resource Expanded Program, or UREP) permanent, but it did not pass.
- 2. DOD established the USA Practice in 1997 through a directive-type memorandum. Memorandum from Assistant Secretary of Defense (Force Management and Policy), dated 23 July 1997, subject: DOD Morale, Welfare and Recreation Utilization, Support and Accountability Practice.
  - a. Commanders and APF and NAF resource managers execute a Memorandum of Agreement to use NAFs to provide APF authorized services in support of MWR programs.
  - b. Authorized services include personnel services, supplies, furniture, fixtures and equipment, routine maintenance, and other operating expenses for specified MWR programs.
  - c. The NAFI receives APF payment for these services from operating accounts that support the installation's base operations.
  - d. NAFIs must keep an accounting of the funds. If the NAFI will not obligate the funds before they expire, the NAFI must return the funds for obligation elsewhere.
- B. Use of NAF employees to perform APF functions. An example is using a NAF contracting officer to perform APF contract actions. This constitutes augmentation of appropriations and violates the Antideficiency Act.
- C. Use of APF employees to perform NAF functions beyond those which are authorized. This violates the Purpose Statute and the Antideficiency Act.
- D. Contracting with NAFIs. 10 U.S.C. § 2482a. This statute states that a DOD agency or instrumentality that supports the operation of the DOD exchange or MWR system may enter into a contract or other agreement with another element of DOD or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the exchange or MWR system.

- E. 10 U.S.C. § 2424. The DOD can contract noncompetitively with overseas exchanges in an amount not exceeding \$50,000.
- F. No COFC jurisdiction over self-funding entities. Furash & Co. v. United States, 252 F.3d 1336 (Fed. Cir. 2001). COFC does have jurisdiction over exchanges. 28 U.S.C. § 1491(a)(1). Boards have jurisdiction over CDA disputes with Commissary baggers. Enrique (Hank) Hernandez, ASBCA No. 53011, 01-2 BCA ¶ 31,220.
- G. Golf Courses. Unless the DOD golf course is located outside the United States or designated as a remote and isolated location, APFs may not be used to equip, operate, or maintain it. 10 U.S.C. § 2246. See also Prohibition on Use of APF for Defense Golf Courses, B-277905, Mar. 17, 1998 (APFs cannot be used to install or maintain “greywater” pipelines on an Army golf course).
- H. MWR patronage eligibility. See DODI 1015.10, Encl. 3. Programs are established primarily for active duty, but 26 categories of authorized patrons are listed in Table 6-1 of AR 215-1, Chapter 6. Before expanding the patron base for MWR usage, consider such things as congressional and regulatory requirements, and affect on customer service. With ASA(MRA) approval, Category C activities can be opened up to the general public.
- I. Billeting Operations. Effective 1 October 1999, the Army consolidated its Temporary Duty and Guest house billeting operations under the Billeting fund.
  - 1. The AMWRF will reimburse the IMWRFs for un-depreciated value of guest houses.
  - 2. IMWRFs will no longer receive the revenues from its guest house (MWR Category C) operations.
- J. MWR during mobilization, contingency, and wartime operations. AR 215-1, Chapter 8, Section IV.
- K. Public Private Ventures (PPV). See DODI 1015.13, Jun. 17, 1998, and AR 215-1, para. 10-12. Private sector built/operated facilities or services on installations in exchange for discounted fees and a return to the installation MWR fund. USACFSC is the sole Army agency authorized to award MWR PPV contracts.

- L. Advertising. DOD INSTR. 1015.10, ENCL. 10; AR 215-1, para. 7-44. NAFIs (excluding exchanges) may advertise in civilian media, and may also sell space for advertising by civilian companies in their MWR media.
- M. Commercial Sponsorship. DOD INSTR. 1015.10, ENCL. 9; AR 215-1, para. 7-47. Commercial sponsorship is a contractual agreement between the military and the sponsor. The military provides access to its advertising market, and the sponsor provides support to an event.
- N. Army 10 Miler. Installations may not use APFs to fund travel to the Army 10 Miler. They may, however, use NAFs when the installation fund manager approves such funds, and if the opportunity to use such funds is open to everyone. Memorandum, Army Deputy General Counsel (Ethics and Fiscal), to Command Judge Advocate, Army Community and Family Support Center, subject: Use of Appropriated Funds for Travel to Army 10-Miler Race (20 Mar. 2000).
- O. Navy Running and Triathlon Teams. For sailors chosen to represent the Navy in certain competitions, regional MWR coordinators will supply the sailors uniforms, entry fees, ground transportation, and lodging expenses. *Navy Regional Running and Triathlon Teams Program Guidelines*, at <http://www.navy.mil/mwrprgms/runguide00.rtf>.

## **X. MWR INFORMATION RESOURCES.**

- A. Army.
  - 1. Newsletter, ***MWR Feedback***, publishes information about Army MWR programs, funding, and other miscellaneous issues.
  - 2. Website at <www.armymwr.com> contains a wealth of user-friendly Army MWR information, including official information such as MWR annual reports, AR 215-1 on-line, and NAF construction, and “unofficial” information about MWR sports, youth, and other programs.
- B. Air Force.
  - 1. Newsletter, ***USAF Services News & Views***, publishes information about Air Force MWR programs.

2. Website at <<http://www.afsv.af.mil>> contains information about Air Force MWR programs such as NAF purchasing, marketing and sponsorship, as well as information on child development centers, youth programs, outdoor recreation, food services, sports and fitness, lodging, and a wealth of other MWR services.

C. Navy.

1. Newsletter, *Undercurrents*, includes information about MWR business activities and programs.
2. Website at <<http://www.mwr.navy.mil>> includes information about Navy MWR programs and policies, as well as a Headquarters Phone Book and a link to employment opportunities.
3. Navy Guidebook, *APF Helpful Hints*, is published to assist in evaluating appropriate APF support for specific elements within an MWR operation. It is available at <<http://www.mwr.navy.mil/subpages/mwrnews.htm>>

D. Marine Corps.

1. The Marine Corps Community Service (MCCS) website at <[www.usmc-mccs.org](http://www.usmc-mccs.org)> includes information regarding USMC MWR programs, personnel, and policy.
2. The MCCS Headquarters has begun publishing a quarterly newsletter called *MCCS Vision*. It is available at the MCCS website.

## XI. CONCLUSION.

## APPENDIX A

### 10 U.S.C. §2783

#### **Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds**

(a) Regulation of management and use of nonappropriated funds. The Secretary of Defense shall prescribe regulations governing--

(1) the purposes for which nonappropriated funds of a nonappropriated fund instrumentality of the United States within the Department of Defense may be expended; and

(2) the financial management of such funds to prevent waste, loss, or unauthorized use.

(b) Penalties for violations.

(1) A civilian employee of the Department of Defense who is paid from nonappropriated funds and who commits a substantial violation of the regulations prescribed under subsection (a) shall be subject to the same penalties as are provided by law for misuse of appropriations by a civilian employee of the Department of Defense paid from appropriated funds. The Secretary of Defense shall prescribe regulations to carry out this paragraph.

(2) The Secretary shall provide in regulations that a violation of the regulations prescribed under subsection (a) by a person subject to chapter 47 of this title [10 USC § 801 et seq.] (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).

(c) Notification of violations.

(1) A civilian employee of the Department of Defense (whether paid from nonappropriated funds or from appropriated funds), and a member of the armed forces, whose duties include the obligation of nonappropriated funds, shall notify the Secretary of Defense of information which the person reasonably believes evidences--

(A) a violation by another person of any law, rule, or regulation regarding the management of such funds; or

(B) other mismanagement or gross waste of such funds.

(2) The Secretary of Defense shall designate civilian employees of the Department of Defense or members of the armed forces to receive a notification described in paragraph (1) and ensure the prompt investigation of the validity of information provided in the notification.

(3) The Secretary shall prescribe regulations to protect the confidentiality of a person making a notification under paragraph (1).

